

TO EXTEND THE COAL-LAND LAWS TO ALASKA.

MARCH 2, 1904.—Ordered to be printed

Mr. NELSON, from the Committee on Public Lands, submitted the following

REPORT.

[To accompany S. 2814.]

The Committee on Public Lands, to which was referred the bill (S. 2814) to amend an act entitled "An act to extend the coal-land laws to the district of Alaska," approved June 6, 1900, have had the same under consideration and report it back with an amendment, and recommend that the bill as amended do pass.

The amendment recommended is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. That any person or association of persons qualified to make entry under the coal-land laws of the United States, who shall have opened or improved a coal mine or coal mines on any of the unsurveyed public lands of the United States in the district of Alaska, may locate the lands upon which such mine or mines are situated, in rectangular tracts containing forty (40), eighty (80), or one hundred and sixty (160) acres, with north and south boundary lines according to the true meridian, by marking the four corners thereof with permanent monuments so that the boundaries thereof may be readily and easily traced, and all such locators shall, within one year from the passage of this act, or within one year from making such location, file for record in the recording district and with the register and receiver of the land district in which the lands are located or situated, a notice containing the name or names of the locator or locators, the date of the location, the description of the lands located, and a reference to such natural objects or permanent monuments as will readily identify the same.

SEC. 2. That such locator or locators, or their assigns, who are citizens of the United States may receive a patent to the lands located by presenting, at any time within three years from the date of such notice, to the register and receiver of the land district in which the lands so located are situated, an application therefor, accompanied by a certified copy of a plat of survey and field notes thereof, made by a United States deputy surveyor or a United States mineral surveyor, duly approved by the surveyor-general for the district of Alaska, a payment of the sum of ten dollars per acre for the lands applied for; but no such application shall be allowed until after the applicant has caused a notice of the presentation thereof, embracing a description of the lands, to have been published in a newspaper in the district of Alaska published nearest the location of the premises, for a period of sixty days, and shall have caused copies of such notice, together with a certified copy of the official plat of survey, to have been kept posted in a conspicuous place upon the land applied for, and in the land office for the district in which the lands are located for a like

period, and until after he shall have furnished proof of such publication and posting and such other proof as is required by the coal-land laws: *Provided*, That nothing herein contained shall be so construed as to authorize entries to be made or title acquired to the shore of any navigable waters within said district.

SEC. 3. During such period of posting and publication, or within thirty days thereafter, any person or association of persons having or asserting any adverse interest or claim to the tract of land, or any part thereof, sought to be purchased, shall file in the land office where such application is pending, under oath, an adverse claim setting forth the nature and extent thereof, and such adverse claimant shall, within sixty days after the filing of such adverse claim, begin an action to quiet title in a court of competent jurisdiction within the district of Alaska, and thereafter no patent shall issue for such claim until the final adjudication of the rights of the parties, and such patent shall then be issued in conformity with the final decree of such court therein.

SEC. 4. That all of the provisions of the coal-land laws of the United States, not in conflict with the provisions of this act, shall continue and be in full force in the district of Alaska.

The proposed amendment is in accordance with the recommendation of the Commissioner of the General Land Office, the only change made being in the last section, namely, in the omission of the words "and no coal shall be mined for sale outside of said district until a patent shall have issued for the land from which it is mined." The committee do not deem it wise to place this restriction upon the disposal of coal mined in Alaska before issuance of patent.

There is a pressing need of legislation of the kind suggested in the proposed bill. As the laws now stand claimants can not secure title to coal lands in Alaska. The measure was referred to the Commissioner of the General Land Office, and appended herewith is a copy of his report upon the same.

DEPARTMENT OF THE INTERIOR,
Washington, February 10, 1904.

SIR: I have the honor to acknowledge the receipt, by reference from the Senate Committee on Public Lands, of a copy of S. 2814, entitled "A bill to amend an act entitled 'An act to extend the coal-land laws to Alaska,' approved June 6, 1900."

In response to the request for the views of this Department thereon, I inclose copy of a report from the Commissioner of the General Land Office, dated the 1st instant, submitting as a substitute for S. 2814, draft of a bill which he thinks will fully cover the needs of that Territory.

I concur in the views of the Commissioner.

Very respectfully,

E. A. HITCHCOCK, *Secretary.*

The CHAIRMAN OF THE COMMITTEE ON PUBLIC LANDS,
Senate.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 1, 1904.

SIR: I have the honor to acknowledge the receipt by reference, under date of January 12, 1904, by the Acting Secretary, for report in duplicate and return of papers of Senate bill No. 2814, Fifty-eighth Congress, second session, entitled "A bill to amend an act entitled 'An act to extend the coal-land laws to the district of Alaska,' approved June 6, 1900."

The bill referred to is as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person, or association of persons, qualified to make entry under the coal-land laws of the United States, who shall have opened and improved a coal mine, or coal mines, on the unsurveyed public lands in the district of Alaska, and who may desire to enter and purchase the same, according to the provisions of the said coal-land laws, before the extension of the public-land surveys over the lands on which such mines are located, shall file in the proper land office an

application to enter the lands held and claimed by them, together with a plat and field notes of the survey of the same, made under the direction of the surveyor-general of the district of Alaska, showing the boundaries of said tracts and their location as regards permanent natural landmarks, or other surveys. All tracts shall be rectangular in form, containing forty, eighty, or one hundred and sixty acres, and distinctly marked by monuments on the ground, and the boundaries of the same shall be true east and west and north and south lines, as nearly as practicable. Upon presentation of said plat and field notes the application, if otherwise regular, shall be accepted as though the tract sought to be entered were embraced within the regular public-land surveys.

"SEC. 2. That six months' preference right shall be allowed to the actual settler or claimant who has located or staked coal lands, either by himself or agent at the date of the passage of this Act, to file his declaratory statement and enter said lands.

"SEC. 3. That five years from and after the expiration of the period allowed for filing the declaratory statement and making entry is allowed claimant in which to make proof and payment for said lands, provided the claimant shall cause to be performed at least one hundred dollars' worth of labor or improvements during each of said years upon such claim.

"SEC. 4. That upon filing of the declaratory statement and application to enter lands, together with the plat and field notes of the same, under the provisions of this Act, the register and receiver of the land office shall issue to claimant a certificate setting forth the facts of said entry, and of the right of claimant to purchase the same; and thereafter the claimant will be entitled to sell and transfer his right to purchase said land, and the purchaser be entitled to make due proof and payment therefor under the provisions of this Act in the same manner as the original claimant; and nothing in this Act shall prevent a bona fide purchaser for value from making proof and payment for more than one claim so purchased, provided the original claimant was qualified under the law to enter and purchase coal lands.

"SEC. 5. That the price to be paid to the receiver for said coal lands taken under this act shall not be less than five dollars per acre.

"SEC. 6. That the Secretary of the Interior shall make all necessary rules and regulations for the purpose of carrying into effect the provisions of this act."

The general coal-land laws were extended to Alaska by the act of June 6, 1900 (31 Stat. L., 658), and by section 2401 of the Revised Statutes, as amended by act of August 20, 1894, it is provided:

"When the settlers in any township not mineral or reserved by the Government, or persons and associations lawfully possessed of coal lands and otherwise qualified to make entry thereof, or when the owners or grantees of public lands of the United States, under any law thereof, desire a survey made of the same under the authority of the surveyor-general, and shall file an application therefor in writing, and shall deposit in a proper United States depository to the credit of the United States a sum sufficient to pay for such survey, together with all expenditures incident thereto, without cost or claim for indemnity on the United States, it shall be lawful for the surveyor-general, under such instructions as may be given him by the Commissioner of the General Land Office, and in accordance with the law, to survey such township or such public lands owned by said grantees of the Government, and make return therefor to the general and proper local land office: *Provided*, That no application shall be granted unless the township so proposed to be surveyed is within the range of the regular progress of the public surveys embraced by existing standard lines or bases for township and subdivisional surveys."

Under this quoted section it is possible for coal claimants on unsurveyed lands within the scope of the subdivisional surveys to have the lands claimed by them surveyed and make entry thereof, but as no township or subdivisional surveys have been made, nor any standard lines or bases for township and subdivisional surveys established within the district of Alaska, coal claimants there under the laws as they now stand can not secure title to the lands claimed by them.

The situation and needs of the local miner in Alaska, as well as those of nearly every other enterprise, are so different from those in the United States as to call for radical differences in the law. It is proposed to require the filing of a declaratory statement with the register and receiver within six months after the date of actual possession and commencement of improvements, or after the passage of the act as to those who are now in possession of such lands, which would in many instances be an absolute impossibility.

Some of the deposits of coal, now protected by section 2348, Revised Statutes, are many thousands of miles from the local land office at Juneau, Alaska. If the owners of such claims should happen to be outside of Alaska at the time of the passage of the act it might be impossible for them to reach the land to make the necessary

markings and the land office to file within the time prescribed. It is therefore thought that at least one year should be allowed to file the declaratory statement or the location notice. It should be borne in mind that the greater portion of Alaska is almost inaccessible except during three or four months in the summer time.

It is also required that the declaratory statements be accompanied by field notes and plat of an official survey of the land. The claimant should not be put to this unnecessary expense at this time, as it would seem that a sufficient informal description might be incorporated in the declaratory statement or location notice in lieu of the description by legal subdivisions, as is done in mining locations covering unsurveyed lands, the official survey contemplated by the act to be made when the claimant files his application to purchase.

In my judgment, a claim to coal lands should be initiated in a manner similar to that under which a homestead entry is now initiated. A homestead claimant makes his settlement and files a notice thereof in the required district in which it is situated. He thereafter, after the expiration of the proper period, causes a survey to be made and forwards it for approval to the surveyor-general. After it has been approved he presents a copy thereof, with his application, to the register and receiver, who thereupon, after proper notice and proof, allow the entry.

It should be constantly borne in mind that the making of surveys in Alaska is difficult and very expensive. For this reason and to encourage the development of coal mines, I think the expense should be lessened as much as possible. For that reason the claimant should be permitted, at the time of his location, to mark his own boundaries, to file his notice in the recording district, and for greater safety and for larger information for the public, should file a copy of it with the register and receiver. He should then be permitted to make his own survey or have it made, prepare and file his own plat and field notes or have them prepared and filed with the surveyor-general, and after that is done he can present his application to enter.

The third section of the bill allows five years from and after the time specified for filing the declaratory statement within which to make proof and payment, with the requirement of an annual expenditure in labor or improvements of \$100 for each claim. The general coal-land law allows a period of one year, which has been found ample in the territory affected thereby, for the purpose of permitting the claimant to determine by development whether the land is worth purchasing. It is feared that if the length of time proposed by the bill be allowed it will result in the public lands in Alaska being exhausted of their coal deposits without adequate compensation to the Government therefor. The experience under the present coal-land law has been that parties file on coal lands, mine coal thereon for a year, fail to purchase within the period prescribed by statute, and have others file upon them in the same interest, thus avoiding payment to the injury of other citizens who desire to purchase, and to the Government, which loses the price of the land.

However, as to coal lands in Alaska, the claimant should be allowed at least three years in which to do this, because conditions are such that in many of these mines only a few months' development work can be done each season. The difficulty in having surveys accurately made consumes a great deal of time and with a limitation upon the power to export coal, no great damage can be done by its sale prior to the issuance of patent. If the miner in northern Alaska must first have his survey made by a regular deputy surveyor under orders from the surveyor-general, he must first send his application to the surveyor-general at Sitka, who will thereupon take proper steps to have the survey made and forward in advance the number it is to receive. An application of this kind could not leave northern Alaska, except by dog team, prior to about the 1st of July. It would require at least one month, if not longer, for this application to reach the surveyor-general and the surveyor-general's reply to reach the surveyor.

It would of course be possible to apply for and make this survey in one season, but the large probabilities are that it would require more than one season to have the survey finally approved by the surveyor-general. I can see no necessity for fixing an expenditure of any specific amount in labor or improvements, inasmuch as the present coal-land laws and regulations give a preference right of purchase to the one who, by "priority of possession and improvement, followed by proper filing and continued good faith," shows himself entitled; but in lieu of such requirement, I would suggest a clause prohibiting the mining, upon the land claimed, of coal for sale outside of Alaska prior to the date of making proof and final payment therefor.

The fourth section of the bill allows but one filing to the individual, but permits the assignee of a declarant to purchase as many claims as he desires. In my opinion the enactment of this section would be in the interest of the speculator and capitalist and permit of the acquisition of valuable coal lands in vast tracts, thus creating monopolies which the existing coal-land laws were intended to prevent.

Inasmuch as no record of coal filings can be kept in the local land office and in the recorder's office, other than the declaratory statements filed, and as the descriptions in these will in many cases be quite indefinite, persons desiring to file or to make entry of coal lands, or parties claiming adversely, or the office in passing upon the same will not be able to determine whether or not conflicts exist.

Publication is not required in coal cases under the existing law; but in view of the difficulty of identifying coal lands in Alaska, taken by metes and bounds, it is thought that the act should contain a requirement of publication and posting of notice as a basis for final proof and payment.

The legislation heretofore enacted permitting the entry of lands for purposes of trade and business and as homesteads in Alaska provides for the filing of notice thereof with the district recorder, the survey thereof, and the adjudication of adverse claims in the courts. (See act of May 14, 1898, 30 Stat. L., 409, and act of March 3, 1903, 32 Stat. L., 1028.) It is thought that in addition to similar provisions respecting matters of record and survey any legislation affecting coal lands in that territory should specify the same method for the assertion and determination of adverse claims.

There would appear to be no good reason why the coal lands of Alaska should not be sold at the minimum price fixed by the existing coal-land laws, and any legislation should contain a provision relative to the 60-foot roadway along the shores of navigable waters which it seems to have been the policy of Congress to reserve.

I therefore have the honor to submit herewith, as a substitute for Senate bill 2814, the following draft of bill which it is thought fully covers the needs of that territory:

A BILL to authorize the entry of unsurveyed public lands in the district of Alaska under the coal-land laws.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

"SECTION 1. That any person or association of persons qualified to make entry under the coal-land laws of the United States, who shall have opened or improved a coal mine or coal mines on any of the unsurveyed public lands of the United States in the district of Alaska, may locate the lands upon which such mine or mines are situated, in rectangular tracts containing forty (40), eighty (80), or one hundred and sixty (160) acres, with north and south boundary lines run according to the true meridian, by marking the four corners thereof with permanent monuments so that the boundaries thereof may be readily and easily traced, and all such locators shall, within one year from the passage of this act, or within one year from making such location, file for record in the recording district and with the register and receiver of the land district in which the lands are located or situated, a notice containing the name or names of the locator or locators, the date of the location, the description of the lands located, and a reference to such natural objects or permanent monuments as will readily identify the same.

"SEC. 2. That such locator or locators, or their assigns, who are citizens of the United States may receive a patent to the lands located by presenting at any time within three years from the date of such notice to the register and receiver of the land district in which the lands so located are situated, an application therefor accompanied by a certified copy of a plat of survey and field notes thereof, made by a United States deputy surveyor or a United States mineral surveyor duly approved by the surveyor-general for the district of Alaska, a payment of the sum of ten dollars per acre for the lands applied for; but no such application shall be allowed until after the applicant has caused a notice of the presentation thereof, embracing a description of the lands, to have been published in a newspaper in the district of Alaska published nearest the location of the premises for a period of sixty days, and shall have caused copies of such notice, together with a certified copy of the official plat of survey, to have been kept posted in a conspicuous place upon the land applied for, and in the land office for the district in which the lands are located for a like period, and until after he shall have furnished proof of such publication and posting, and such other proof as is required by the coal-land laws: *Provided*, That nothing herein contained shall be so construed as to authorize entries to be made or title to be acquired to the shore of any navigable waters within said district.

"SEC. 3. During such period of posting and publication, or within thirty days thereafter, any person or association of persons having or asserting any adverse interest or claim to the tract of land, or any part thereof sought to be purchased, shall file in the land office where such application is pending, under oath, an adverse claim setting forth the nature and extent thereof, and such adverse claimant shall, within sixty days after the filing of such adverse claim, begin an action to quiet title

in a court of competent jurisdiction within the district of Alaska, and thereafter no patent shall issue for such claim until the final adjudication of the rights of the parties, and such patent shall then be issued in conformity with the final decree of such court therein.

"SEC. 4. That all of the provisions of the coal-land laws of the United States, not in conflict with the provisions of this act, shall continue and be in full force in the district of Alaska, and no coal shall be mined for sale outside of said district until a patent shall have issued for the land from which it is mined."

The papers accompanying the reference of the Acting Secretary are herewith returned.

Very respectfully,

W. A. RICHARDS,
Commissioner.

The SECRETARY OF THE INTERIOR.

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